
Public Notice

Applicant:

Fred Lee

Date:

Published: November 8, 2002

~~Expires: December 7, 2002~~

**U.S. Army Corps
of Engineers**

In Reply Refer To:

Buffalo District CELRB-TD-R RE: 81-976-60(2) Section: NY 404

**Application for Permit under Authority of
Section 404 of the Clean Water Act (33 U.S.C. 1344).**

Mr. Fred Lee, 13902 Strykersville Road, South Wales, New York 14139, has applied for a Department of the Army permit to dredge and discharge dredged material into Sheldon Creek: and, to dredge in Buffalo Creek. The work is associated with the removal of two gravel bars and restoring and protecting an eroded bank, in the Town of Wales in Erie County, New York. A portion of the work commenced prior to receiving Department of the Army authorization and the applicant requests after-the-fact authorization for this work.

The applicant is proposing to remove a gravel bar from Buffalo Creek, using either a backhoe or a bulldozer. About 83 cubic yards of material shall be removed from the gravel bar. This dredged material shall be hauled away to an upland site. The purpose of this gravel bar removal is to prevent the restriction of the creek flow, so that the creek does not push towards one of the Erie County Soil and Water Conservation District Joint Board Projects.

The applicant has also applied to remove a gravel bar from Sheldon Creek, and to use some of the removed gravel to fill in an eroded area of bank. The applicant shall use a backhoe or a bulldozer to remove a total of about 560 cubic yards of material from the gravel bar. About 260 cubic yards of this material shall be used to fill in part of the bank area which has eroded away. About 78 cubic yards of this material shall be placed below the Ordinary High Water Level of the creek. About 300 cubic yards of the removed gravel bar material shall be hauled away to an upland site. The purpose of this work is to restore the eroded bank area and to protect the bank from further erosion.

The project is being constructed in cooperation with the Erie County Soil and Water Conservation District.

Location and details of the above described work are shown on the attached maps and drawings.

Questions pertaining to the work described in this notice should be directed to Mel R. Schroeder, who can be contacted by calling (716) 879-4307, or by e-mail at: mel.r.schroeder@usace.army.mil

The following authorization(s) may be required for this project:

Water Quality Certification (or waiver thereof) from the New York State Department of Environmental Conservation.

There are no registered historic properties or properties listed as being eligible for inclusion in the National Register of Historic Places that will be affected by this project.

In addition, available evidence indicates that the proposed work will not affect a species proposed or designated by the U.S. Department of the Interior as threatened or endangered, nor will it affect the critical habitat of any such species.

This notice is promulgated in accordance with Title 33, Code of Federal Regulations, parts 320-330. Any interested party desiring to comment on the work described herein may do so by submitting their comments, in writing, so that they are received no later than 4:30 pm on the expiration date of this notice.

Comments should be sent to the U. S. Army Corps of Engineers, 1776 Niagara Street, Buffalo, New York 14207-3199, and should be marked to the attention of Mel R. Schroeder, or by e-mail at: mel.r.schroeder@usace.army.mil. A lack of response will be interpreted as meaning that there is no objection to the work as proposed.

Comments submitted in response to this notice will be fully considered during the public interest review for this permit application. All written comments will be made a part of the administrative record which is available to the public under the Freedom of Information Act. The Administrative Record, or portions thereof may also be posted on a Corps of Engineers internet web site. Due to resource limitations, this office will normally not acknowledge the receipt of comments or respond to individual letters of comment.

Any individual may request a public hearing by submitting their written request, stating the specific reasons for holding a hearing, in the same manner and time period as other comments.

Public hearings for the purposes of the Corps permit program will be held when the District Commander determines he can obtain additional information, not available in written comments, that will aid him in the decision making process for this application. A Corps hearing is not a source of information for the general public, nor a forum for the resolution of issues or conflicting points of view (witnesses are not sworn and cross examination is prohibited). Hearings will not be held to obtain information on issues unrelated to the work requiring a permit, such as property ownership, neighbor disputes, or the behavior or actions of the public or applicant on upland property not regulated by the Department of the Army. Information obtained from a public hearing is given no greater weight than that obtained from written comments. Therefore, you should not fail to make timely written comments because a hearing might be held.

The decision to approve or deny this permit request will be based on an evaluation of the probable impact, including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among these are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and in general, the needs and welfare of the people.

The Corps of Engineers is soliciting comments from the public; Federal, state and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Paul G. Leuchner
Chief, Regulatory Branch

NOTICE TO POSTMASTER: It is requested that this notice be posted continuously and conspicuously for 30 days from the date of issuance.